

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Washington Gas Light)	File Nos.: EB-10-CF-0209; EB-FIELDNER-
)	13-00006816
Antenna Structure Registrant)	NAL/Acct. No.: 201132340003
Springfield, Virginia)	FRN: 0016494148
ASR # 1035329)	

FORFEITURE ORDER

Adopted: July 22, 2014**Released: July 22, 2014**

By the Regional Director, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. We impose a penalty of \$10,400 against Washington Gas Light (Washington Gas) for violations of the Commission's antenna structure rules. The Enforcement Bureau alleged that Washington Gas failed to exhibit required lighting on its antenna structure, notify the Federal Aviation Administration (FAA) immediately of the lighting outage, and inform the Commission regarding its purchase of the antenna structure. Washington Gas does not dispute the violations, but requests a forfeiture reduction because it purportedly notified the FAA of the lighting outage prior to the Enforcement Bureau's investigation and has a history of compliance with the Commission's rules. While we are not persuaded that Washington Gas notified the FAA of the lighting outage in a timely manner, we find that its history of compliance warrants a forfeiture reduction.

2. Specifically, we issue a monetary forfeiture to Washington Gas, owner of antenna structure number 1035329 in Prince Frederick, Maryland (Antenna Structure), for willfully and repeatedly violating Sections 17.48, 17.51(a), and 17.57 of the Commission's rules (Rules).¹

II. BACKGROUND

3. On September 1, 2011, the Enforcement Bureau's Columbia Office (Columbia Office) issued a Notice of Apparent Liability for Forfeiture (NAL) to Washington Gas proposing a \$13,000 forfeiture against it for apparent violations of the Commission's antenna structure rules.² In its *NAL Response*, Washington Gas does not dispute the NAL's findings, but claims that a reduction in the proposed forfeiture is warranted because it eventually notified the FAA of the Antenna Structure light outage and has a history of compliance with the Rules.³

III. DISCUSSION

4. As Washington Gas does not deny any of the facts stated in the NAL, we affirm the NAL's findings and conclude that Washington Gas willfully and repeatedly violated Sections 17.48, 17.51(a), and 17.57 of the Rules by failing to: (1) exhibit required lighting on the Antenna Structure, (2)

¹ 47 C.F.R. §§ 17.48, 17.51(a), 17.57.

² *Washington Gas Light*, Notice of Apparent Liability for Forfeiture, 26 FCC Rcd 12640 (Enf. Bur. 2011) (NAL). A comprehensive recitation of the facts and history of this case can be found in the NAL and is incorporated by reference.

³ *Washington Gas Light*, Request for Reconsideration (rec. Oct. 5, 2011) (on file in EB-FIELDNER-13-00006816) (NAL Response).

immediately notify the FAA of the Antenna Structure lighting outage, and (3) inform the Commission upon a change in ownership of the Antenna Structure.

5. The proposed forfeiture amount in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (Act),⁴ Section 1.80 of the Rules,⁵ and the *Forfeiture Policy Statement*.⁶ In examining Washington Gas's *NAL Response*, Section 503(b)(2)(E) of the Act requires that the Commission take into account the nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require.⁷ We have considered Washington Gas's *NAL Response* in light of these statutory factors and find that reduction of the forfeiture is warranted based solely on its history of compliance with the Rules.

6. Washington Gas requests a forfeiture reduction because it purportedly notified the FAA of the lighting outage prior to the Enforcement Bureau's investigation.⁸ Although the Commission will generally reduce a forfeiture based on good faith corrective actions taken by a violator, we find no such basis to reduce the forfeiture against Washington Gas.⁹ The Rules require antenna structure owners to "immediately" report lighting outages lasting longer than 30 minutes to the FAA.¹⁰ By its own admission, Washington Gas knew about the lighting outage by October 15, 2010, but did not notify the FAA until October 19, 2010.¹¹ This delay undercuts Washington Gas's good faith compliance efforts claim. In addition, the record indicates that Washington Gas had not reported the lighting outage until after the Columbia Office agent inspected the Antenna Structure and contacted the FAA.¹² We have repeatedly held that corrective action taken to come into compliance with the Rules is expected, and such corrective action does not automatically nullify or mitigate prior violations or associated forfeiture liability.¹³ We therefore decline to reduce the forfeiture against Washington Gas based on its late notice to the FAA of the lighting outage at its Antenna Structure.¹⁴

7. Washington Gas also requested a reduction in the forfeiture amount due to its overall history of compliance with the Rules.¹⁵ We have reviewed the Commission's records and concur that

⁴ 47 U.S.C. § 503(b).

⁵ 47 C.F.R. § 1.80.

⁶ *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997), *recons. denied*, 15 FCC Rcd 303 (1999) (*Forfeiture Policy Statement*).

⁷ 47 U.S.C. § 503(b)(2)(E).

⁸ See *NAL Response* at 4.

⁹ See, e.g., *Catholic Radio Network of Loveland, Inc.*, Forfeiture Order, 29 FCC Rcd 121 (Enf. Bur. 2014); *Argos Net, Inc.*, Forfeiture Order, 28 FCC Rcd 1126 (Enf. Bur. 2013); *LawMate Tech. Co.*, 27 FCC Rcd 15159 (Enf. Bur. 2012).

¹⁰ 47 C.F.R. § 17.48.

¹¹ *NAL*, 26 FCC Rcd at 12641, para. 5.

¹² See *id.* at 12640–41, para. 3 (noting that no Notice to Airmen had been issued for the Antenna Structure lighting outage by the time the Columbia Office agent contacted the FAA on October 19, 2010).

¹³ See, e.g., *Mattoon Broad. Co.*, Forfeiture Order, 29 FCC Rcd 2925, 2926, para. 5 (Enf. Bur. 2014); *Argos Net*, 28 FCC Rcd at 1127, para. 4.

¹⁴ See *Int'l Broad. Corp.*, Order on Review, 25 FCC Rcd 1538 (2010) ("To reduce the forfeiture as requested would be to reward postponement of compliance with the Rules until after a Commission inspection. We find such an approach contrary to the public interest.").

¹⁵ See *NAL Response* at 4.

Washington Gas has not been previously cited with a violation of the Rules. Accordingly, we reduce the proposed forfeiture to \$10,400 based on Washington Gas's history of compliance.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act and Sections 0.111, 0.204, 0.311, 0.314, and 1.80(f)(4) of the Rules, Washington Gas Light **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of ten thousand four hundred dollars (\$10,400) for violations of Sections 17.48, 17.51(a), and 17.57 of the Rules.¹⁶

9. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Forfeiture Order.¹⁷ If the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.¹⁸ Washington Gas Light shall send electronic notification of payment to NER-Response@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹⁹ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions you should follow based on the form of payment you select:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

10. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, D.C. 20554.²⁰ If you have questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

¹⁶ 47 U.S.C. § 503(b); 47 C.F.R. §§ 0.111, 0.204, 0.311, 0.314, 1.80(f)(4), 17.48, 17.51(a), 17.57.

¹⁷ 47 C.F.R. § 1.80.

¹⁸ 47 U.S.C. § 504(a).

¹⁹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁰ See 47 C.F.R. § 1.1914.

11. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by both First Class Mail and Certified Mail, Return Receipt Requested, to Washington Gas Light at 6801 Industrial Road, Springfield, VA 22151, and to its counsel, Alan Tilles, at Shulman, Rogers, Gandal, Pordy, and Ecker, P.A., 12505 Park Potomac, Potomac, MD 20854.

FEDERAL COMMUNICATIONS COMMISSION

G. Michael Moffitt
Regional Director, Northeast Region
Enforcement Bureau